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**In re application of:** Liu *et al.***Application No.** 10/017,168**Filed:** December 14, 2001**Confirmation No.** 9437**For:** COMPOSITIONS AND METHODS FOR  
DETECTING TREPONEMA PALLIDUM**Examiner:** Vanessa L. Ford**Primary Examiner:** Nita Minnifield**Art Unit:** 1645**Attorney Reference No.** 6395-61666-01**CERTIFICATE OF FACSIMILE**

I hereby certify that this paper and the documents referred to as being attached or enclosed herewith are being facsimile transmitted to fax number (703) 872-9306 on the date shown below.

Attorney  
for Applicant(s) Debra A. GordonDate Transmitted January 3, 2005

Transmitted herewith for filing in the above-identified application is a Response to Notice of Non-Compliance with 37 CFR 1.192(c) ("Response"). It is believed that no fees are required to file this Response. However, please charge any fees that may be required in connection with filing of this Response to Deposit Account 02-4550.

Debra A. Gordon  
Debra A. Gordon, Ph.D.  
Registration No. 54,128January 3, 2005  
Datecc: Docketing  
Examiner Vanessa Ford (by facsimile to (571) 273-0857)

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TMH/DAG:gtc 01/03/05 340409  
PATENTAttorney Reference Number 6395-61666-01  
Application Number 10/017,168

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Liu *et al.*

Application No. 10/017,168

Filed: December 14, 2001

Confirmation No. 9437

For: COMPOSITIONS AND METHODS FOR  
DETECTING TREPONEMA PALLIDUM

Examiner: Vanessa L. Ford

Primary Examiner: Nita Minnifield

Art Unit: 1645

Attorney Reference No. 6395-61666-01

CERTIFICATE OF FACSIMILE

I hereby certify that this correspondence and any documents referred to as being transmitted herewith are being facsimile transmitted to the Patent and Trademark Office via Fax No. 703-872-9306 on January 3, 2005.

  
Attorney for ApplicantCOMMISSIONER FOR PATENTS  
P.O. BOX 1450  
ALEXANDRIA, VA 22313-1450**RESPONSE TO NOTIFICATION OF NON-COMPLIANCE WITH 37 CFR 1.192(c)**

This submission ("Response") responds to the Notification of Non-Compliance with 37 CFR 1.192(c), mailed December 23, 2004 ("Notice"). A one-month period for reply is applicable, making a response due on or before January 23, 2005. It is believed that no fees are required in connection with this filing; however, the Commissioner is authorized to charge any fees that may be required to the deposit account referenced on the accompanying transmittal letter.

The Notice contends that the "Appeal Brief filed on 12 October 2004 is defective for failure to comply with . . . 37 CFR 1.192(c)(7)." Applicants respectfully submit that the rules set forth in 37 CFR 1.192, including 37 CFR 1.192(c)(7), were removed in their entirety by the change to the Rules of Practice Before the Board of Patent Appeal and Interferences, which change became effective on September 13, 2004 (see Federal Register, Vol. 69, No. 155, pages 49960-50020, August 12, 2004; "Rule Change"). Because Applicants' Appeal Brief was filed after the effective date of the Rule Change, 37 CFR 1.192(c), and in particular 37 CFR 1.192(c)(7), is not applicable to the present Appeal Brief. Therefore, Applicants respectfully request that the objection in the Notice be withdrawn.

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Applicants thank Primary Examiner Minnifield for a brief telephone interview on December 30, 2004 with Applicants' representative, Debra A. Gordon. The Rule Change was discussed. Examiner Minnifield stated that an explanation that 37 C.F.R. §1.192(c) had been removed by the Rule Change likely would be sufficient to overcome the objection set forth in the Notice.

It is respectfully submitted that the Appeal Brief is ready for consideration by the Examiner. If any technical issues remain, the Examiner is requested to contact the undersigned prior to issuance of another Office action for a brief discussion of the issue(s) in the hope that such issue(s) can be resolved over the telephone, and thereby expedite resolution of the pending appeal.

Respectfully submitted,

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